

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

4: CV 14-1590

YAN YAN

Plaintiff,

V.

Pennsylvania State University,
Penn State University Brandywine Campus

Defendants.

) Case No:

) Jury Trial Demanded

) Judge:

) Complaint Filed: Aug 11, 2014

**FILED
WILLIAMSPORT**

AUG 13 2014

PER
DEPUTY CLERK

COMPLAINT

Jurisdiction

1. Plaintiff, Yan Yan invokes this Court lawsuit via jurisdiction by virtue of 28.U.S.C. §1367, 28U.S.C. §1391. She brings cause of actions under Title VII, 42 U.S.C §2000e; 42U.S.C. §1983; the Age Discrimination in Employment Act of 1967 (ADEA) and the Americans with Disabilities Act of 1990 (ADA).

Parties

2. Plaintiff, Yan Yan(Yan) is a female from China mainland descent, over 40 years old; she resides at 135N 9th St, Philadelphia, PA 19107.
3. The Defendant, Penn State University (PSU), is a public higher education institute and receives federal fundings. It's main place of business is located at 227 West Beaver Avenue, Suite 507, State College, PA 16801.

Statement of Facts

4. Yan complained PSU at PHRC in 2009 (case no. 200902753), in 2010(case no. 201002298), in 2013(case no. 201202380) for discrimination based on gender, national of origin, age, disability and retaliation.
5. Defendants responded the above complaints and thus get all the facts that Yan complained.
6. Yan Yan, over 40 years old, Chinese mainland, female, with permanent disability. Defendants learned all the facts about Plaintiff's via previous communication.

7. Yan applied position of Biology Assistant Professor at PSU Brandywine Campus in Jan 2014.
8. According to the job prescription, Yan qualified the position since she had related training, experience and publications.
9. In the letter dated on May 28, 2014 from Madlyn L Hanes, Vice President for Commonwealth Campuses and Dean, University College, Yan was informed that she was not the successful candidate.
10. Moreover, Yan found her qualification is better/equal as Kamesh Madduri, and Michael DeGiorgio (male, none-Chinese, non-disabled, younger than 40 years old) who are hired as tenure tracked faculty at PSU, while Yan was denied. The denial reason is not true and is a pretext of discrimination.
11. On June 30, 2014, Yan applied another faculty position at PSU, though she is qualified the position, However, she was not informed to be offered the position so far.

CAUSES OF ACTION

Count I

Yan Yan V. Pennsylvania State University

Violation of Title VII, 42 U.S.C. § 2000 (e)

Discrimination on the Basis of Sex

12. Plaintiff incorporates herein by reference paragraphs 1 through 11 above, as if set forth herein in their entirety.
13. Title VII states: (a) Employer practices It shall be an unlawful employment practice for an employer-- (1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin; or (2) to limit, segregate, or classify his employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin. (42 U.S.C.A. § 2000e).
14. Yan is female and was denied for employment. While male employee was hired. By committing the foregoing acts of discrimination against Plaintiff based on Plaintiff's sex, Defendant has violated Title VII.

15. Said violations were willful and intentional and warrant the imposition of punitive damages.
16. As a direct and proximate result of Defendants' violation of the Title VII, Plaintiff has suffered the damages and losses set forth herein.
17. Plaintiff is now suffering and will continue to suffer irreparable injury and monetary damages as a result of Defendant's discriminatory acts unless and until this Court grants the relief requested herein.

Count II

Yan Yan V. Pennsylvania State University
Violation of Title VII, 42 U.S.C. § 2000 (e)
Discrimination on the Basis of National Origin

18. Plaintiff incorporates herein by reference paragraphs 1 through 17 above, as if set forth herein in their entirety.
19. Yan is Chinese, and denied her qualified job application while non-Chinese employee was hired. By committing the foregoing acts of discrimination against Plaintiff based on Plaintiff's national origin, Defendant has violated Title VII.
20. Said violations were willful and intentional and warrant the imposition of punitive damages.
21. As a direct and proximate result of Defendant's violation of the Title VII, Plaintiff has suffered the damages and losses set forth herein.
22. Plaintiff is now suffering and will continue to suffer irreparable injury and monetary damages as a result of Defendant's discriminatory acts unless and until this Court grants the relief requested herein.

Count III

Yan Yan V. Pennsylvania State University
Violation of Title VII, 42 U.S.C. § 2000 (e)
Discrimination on the Basis of age

23. Plaintiff incorporates herein by reference paragraphs 1 through 22 above, as if set forth herein in their entirety.
24. Yan was over 40 years old, and was denied the qualified employment while substantial younger

employee was hired. By committing the foregoing acts of discrimination against Plaintiff based on Plaintiff's age, Defendant has violated Title VII.

25. Said violations were willful and intentional and warrant the imposition of punitive damages.
26. As a direct and proximate result of Defendant's violation of the Title VII, Plaintiff has suffered the damages and losses set forth herein.
27. Plaintiff is now suffering and will continue to suffer irreparable injury and monetary damages as a result of Defendant's discriminatory acts unless and until this Court grants the relief requested herein.

Count IV

Yan Yan V. Pennsylvania State University

Violation of Title VII, 42 U.S.C. § 2000 (e)

Discrimination on the Basis of Disability

28. Plaintiff incorporates herein by reference paragraphs 1 through 27 above, as if set forth herein in their entirety.
29. Yan was permanent disabled according to physicians/had qualified disability, but Yan was denied her qualified job application. While hired employees did not show disability. By committing the foregoing acts of discrimination against Plaintiff based on Plaintiff's disability, Defendant has violated Title VII.
30. Said violations were willful and intentional and warrant the imposition of punitive damages.
31. As a direct and proximate result of Defendant's violation of the Title VII, Plaintiff has suffered the damages and losses set forth herein.
32. Plaintiff is now suffering and will continue to suffer irreparable injury and monetary damages as a result of Defendant's discriminatory acts unless and until this Court grants the relief requested herein.

Count V

Yan Yan V. Pennsylvania State University

Violation of Title VII, 42 U.S.C. § 2000 (e)

Retaliation

33. Plaintiff incorporates herein by reference paragraphs 1 through 33 above, as if set forth herein in their entirety.
34. The retaliation statute, 42 U.S.C. § 2000e-3(a), provides, in pertinent part: [i]t shall be an unlawful employment practice for an employer to discriminate against any of his employees or applicants for employment ... because he has opposed any practice made an unlawful employment practice by this subchapter, or because he has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this subchapter.
35. Yan filed charges of discrimination at University Pennsylvania in 2009, 2010, and 2013. Yan was not hired for a qualified position. While employees who did not complained were hired. By committing the foregoing acts of discrimination against Plaintiff based on Plaintiff's national origin and race, Defendant has violated Title VII.
36. Said violations were willful and intentional and warrant the imposition of punitive damages.
37. As a direct and proximate result of Defendant's violation of the Title VII, Plaintiff has suffered the damages and losses set forth herein.
38. Plaintiff is now suffering and will continue to suffer irreparable injury and monetary damages as a result of Defendant's discriminatory acts unless and until this Court grants the relief requested herein.

Count VI

Yan Yan V. Pennsylvania State University

**Violation of the Age Discrimination in
Employment Act of 1967 (ADEA).**

39. Plaintiff incorporates herein by reference paragraphs 1 through 38 above, as if set forth herein in their entirety.
40. The ADEA prohibits employment discrimination against persons 40 years of age or older. They are just entitled to equal treatment as compared to employees who are "substantially younger."
41. Yan was over 40 years old, and was denied her qualified employment while substantial younger employee was hired. By committing the foregoing acts of discrimination against Plaintiff based on Plaintiff's age, Defendant has violated ADEA.
42. Said violations were willful and intentional and warrant the imposition of punitive damages.
43. As a direct and proximate result of Defendant's violation of the ADEA, Plaintiff has suffered the damages and losses set forth herein.

44. Plaintiff is now suffering and will continue to suffer irreparable injury and monetary damages as a result of Defendant's discriminatory acts unless and until this Court grants the relief requested herein.

Count VII

Yan Yan V. Pennsylvania State University

Violation of the Americans with Disabilities Act of 1990 (ADA)

45. Plaintiff incorporates herein by reference paragraphs 1 through 44 above, as if set forth herein in their entirety.
46. The Americans with Disabilities Act of 1990 (ADA) prohibits discrimination and ensures equal opportunity for persons with disabilities in employment, State and local government services, public accommodations, commercial facilities, and transportation. It also mandates the establishment of TDD/telephone relay services.
47. Yan has/had qualified disability according to physicians, but Yan was denied her qualified job application. While hired employees did not have disability. By committing the foregoing acts of discrimination against Plaintiff based on Plaintiff's disability, Defendant has violated ADA.
48. Said violations were willful and intentional and warrant the imposition of punitive damages.
49. As a direct and proximate result of Defendant's violation of ADA, Plaintiff has suffered the damages and losses set forth herein.
50. Plaintiff is now suffering and will continue to suffer irreparable injury and monetary damages as a result of Defendant's discriminatory acts unless and until this Court grants the relief requested herein.

Count VIII

Yan Yan V. Pennsylvania State University

Violation of 42 U.S.C. §1983

Retaliation in Violating the First Amendment

51. Plaintiff incorporates herein by reference paragraphs 1 through 50 above, as if set forth herein in their entirety.
52. 42 U.S.C. §1983 provides: Every person who, under color of any statute, ordinance, regulation,

custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable.

53. The Penn State University is government agency and receives federal funding therefore it is a state actor.
54. The Penn State University violated Title VII so it subjects to 42U.S.C. §1983.
55. Yan filed charges of discrimination against University Pennsylvania in 2007, 2008, 2009, 2010, and 2014. Yan was not hired for a qualified position. While employee who did not complained was hired. By committing the foregoing acts of retaliation against Plaintiff based on Plaintiff's protective actions, Defendant has violated the First Amendment Claim.
56. Said violations were willful and intentional and warrant the imposition of punitive damages.
57. As a direct and proximate result of Defendant's violation of the First Amendment under 42U.S.C. §1983, Plaintiff has suffered the damages and losses set forth herein.
58. Plaintiff is now suffering and will continue to suffer irreparable injury and monetary damages as a result of Defendant's discriminatory acts unless and until this Court grants the relief requested herein.

Count IX

Yan Yan V. Pennsylvania State University

Violation of 42U.S.C. §1983 and Equal Protection Clause

Based on Yan's Gender, National of Origin, Disability and Age.

59. Plaintiff incorporates herein by reference paragraphs 1 through 58 above, as if set forth herein in their entirety.
60. Yan was denied her qualified job application while the similar situated counterparts who were not in Yan's protected class were hired at PSU. The Defendants violated Yan's civil right of equal protection clause under 42U.S.C. §1983 because they discriminated Yan based on her gender, national of origin, disability and age.
61. Said violations were willful and intentional and thus warrant the imposition of punitive damages.

62. As a direct and proximate result of Defendant's violation of the Equal Protection Clause under 42U.S.C. § 1983, Plaintiff has suffered the damages and losses set forth herein.
63. Plaintiff is now suffering and will continue to suffer irreparable injury and monetary damages as a result of Defendant's discriminatory acts unless and until this Court grants the relief requested herein.

INJURIES


64. Yan was severely injured and significantly injured as a result of the conduct of the Defendants. First, she was denied for her qualified jobs due to her lack of PhD certificate which destroyed her academic careers. She suffers from severe mental and physical stress, ruined her reputation, lowered her professional stature due to discrimination and retaliation treatment on her education. The conduct of Defendants has damaged her financial status and her daily life for more than 7 years. She could not take care of her kid and family members for more than 10 years due to fail to grant her PhD degree.

RELIEF

65. Plaintiff requests this Court assume jurisdiction over this matter and offer her to her applied and qualified position(tenure track faculty), direct Defendants to refrain from further discrimination, retaliation and award her compensatory damages for the injuries she suffered, award her punitive damages against the individual Defendant, and provide all other appropriate relief, including legal costs.

Respectfully submitted

Dated on Aug 11, 2014

 By /s/ Yan Yan
Plaintiff *pro se*

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Philadelphia, PA 19107
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Clerk's office

U.S. District Court

Middle District Court of Pennsylvania

U.S. Courthouse and Federal Office Building

240 West Third Street, Suite 218

Williamsport, PA 17701

Tel: 570 323 6380

Fax: 570 323 0636

Aug 11, 2014

Please find the following documents to be
filed in this court.

x Letter to Clerk's office

x Complaint Yan Yan vs Penn State University,
Penn State Brandywine Campus.

x Motion to process in forma pauperis

AN
9th Street
Philadelphia, PA 19107

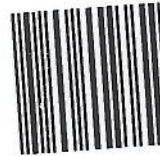


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